

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: WORLD TRADE CENTER LOWER
MANHATTAN DISASTER SITE LITIGATION

21 MC 102 (AKH)
(all actions identified in the Table attached to
the Notice of Motion and as Exhibit B
hereto).

CERTIFICATION OF
JOSEPH E. HOPKINS

THIS DOCUMENT APPLIES TO ALL WORLD
TRADE CENTER DISASTER SITE LITIGATION

I, JOSEPH E. HOPKINS, of full age, hereby certifies as follows:

1. I am a member of the Bar of the State of New Jersey and am a partner in the firm Patton Boggs LLP. I am admitted *pro hac vice* in the World Trade Center matters known as Consolidated Master Docket Numbers 21 MC 100 and 21 MC 102 pending before this Court.

2. I represent Defendants Tully Construction Co. Inc. and Tully Industries, Inc. (collectively "Tully") in the above captioned matters consolidated under *In re World Trade Center Lower Manhattan Disaster Site Litigation*, 21 MC 102 (AKH) ("*WTC Disaster Litigation*").

3. I submit this certification in support of Tully's Motion to Transfer and/or Stay and have personal knowledge of the facts stated herein.

4. The Court has issued four case management orders in the 21 MC 102 docket, and five case management orders in the 21 MC 100 docket.

5. Pursuant to Section III(A)(3) of Case Management Order 3 in 21 MC 100, Tully submitted a Declaration on March 17, 2005. Attached as Exhibit A is a true and accurate

copy of relevant pages of the Declaration of Defendant Tully Construction Co., Inc. pursuant to Section III(A)(3) of Case Management Order No. 3.

6. Tully has been named as a defendant by various plaintiffs in 21 MC 102 and now seeks to have those actions transferred to the 21 MC 100 docket or, in the alternative, to have the actions stayed as to Tully pending resolution of the appeal captioned *In Re: World Trade Center Disaster Site Litigation* (06-5324-cv) (2d Cir) currently pending before the United States Court of Appeals for the Second Circuit. Attached as Exhibit B is a true and accurate copy of a table identifying the actions filed as Short Form Complaints naming Tully as a defendant in 21 MC 102. A copy of this table is also attached to the Notice of Motion submitted herewith.

7. On March 9, 2007, the United States Court of Appeals for the Second Circuit entered an Order staying all trial and pre-trial proceedings in 21 MC 100. Attached as Exhibit C is a true and accurate copy of the Second Circuit's March 9, 2007 Order.

8. On April 13, 2007, this Court entered an Order denying plaintiff Steve Zablocki's request to transfer his action from 21 MC 100 to 21 MC 102. Attached as Exhibit D is a true and accurate copy of this Court's April 13, 2007 Order.

9. Attached as Exhibit E is a true and accurate copy of a Short-Form Complaint brought in 21 MC 102 that is captioned *Byron Acosta v. Bankers Trust Company, et al.*, Index No. 07cv1552.

10. On July 31, 2007, I contacted Plaintiffs' counsel Paul J. Napoli, Esq. and Christopher Lopalo, Esq. to request his agreement to transfer the actions identified herein from 21 MC 102 to 21 MC 100 or, in the alternative, to stay the actions as to Tully pending resolution of the appeal currently before the Second Circuit. Although indicating that they would respond

“shortly”, as of the time of this filing, Plaintiffs’ counsel have not yet responded. To avoid prejudice and protect Tully’s rights, this motion is being filed at this time.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



JOSEPH E. HOPKINS
Of PATTON BOGGS LLP

Dated: August 2, 2007